

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2014 - 2015

Agency - Fair Work Commission

Department of Employment Question No. EMSQ15-000031

Senator McKenzie asked on 26 February 2015 on proof Hansard page 56

Question

FWC - Permit suspension period

CHAIR: But the 2003 conviction, the 2005 not complying with a community based order, convicted of theft in 2007, that is not going to be wiped off his record, is it?

Mr Enright: No, but again they were matters put to His Honour, and His Honour exercised his powers.

CHAIR: For a suspension?

Mr Enright: He suspended the permit as opposed to cancelling or revoking those other matters.

Senator Abetz: So, technically at the end of that suspension do you have to then reapply?

Mr Enright: Not technically.

CHAIR: I do not think you do. It is just a suspension.

Senator Abetz: So, would it be reinstated automatically?

Ms O'Neill: That is right. It may be that the period of suspension coincides with the remainder of the term.

CHAIR: Could you check that for me, please?

Ms O'Neill: Yes.

Answer

Section 517 of the *Fair Work Act 2009* governs the return of entry permits to and from the Fair Work Commission (the Commission). In particular s 517(2) provides the following: After the end of a suspension period, the Commission must return the entry permit to the permit holder if:

- (a) the permit holder, or the permit holder's organisation, applies to the Commission for the return of the entry permit; and
- (b) the entry permit has not expired.

The Commission suspended Mr Luke Collier's entry permit for a period of 12 months from 29 January 2015. The effect of s 517 is that upon application by either Mr Collier or the CFMEU on or after 29 January 2016, the Commission must return the entry permit which would then remain valid between the date of its return and its expiration on 11 June 2016.

Upon expiration of the permit on 11 June 2016, the CFMEU will be entitled to apply for the issue of a new permit on behalf of Mr Collier.